IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1535 OF 2005

Brig. (Retd.) K.S. Chandpuri ...Petitioner

Versus

Lt. Gen (Retd.) P.N. Hoon & Anr ...Respondents

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Mr. S.A. Bhalwal i/b M/s. Vyas & Bhalwal Advocate for Petitioner

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 12TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of proceedings relating to Criminal Case No. 132 of 2005 which is pending in the Court of learned 1st Metropolitan Magistrate, Konkan Bhavan, Vashi, Navi Mumbai. In the said case, summons has been issued against the petitioner under Sections 406 and 420 of I.P.C. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing summons and the said summons deserves to be set aside. It is further submitted

that if the summons issued against the petitioner is set aside, the proceedings in respect of the petitioner would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing summons. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing summons.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of four weeks from today. I am informed that the date before the trial Court is on 22.09.2005. In view of this statement, the trial Court shall not proceed with the trial on 22.09.2005 and for a period of three weeks thereafter.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on

merits after hearing necessary parties.

6. Writ Petition is disposed of.

7. Office to issue an authenticated copy of this order to the parties.

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